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SUBJECT: SERBIA: PROPOSED LAW ON PLANNING AND CONSTRUCTION TO IMPACT
RESTITUTION CLAIMS

SUMMARY

1. (SBU) A draft law on Planning and Construction currently under debate in Parliament could significantly impact future restitution claims. Although there are several necessary positive elements in the legislation, including streamlining the construction permitting procedure and rationalizing the urban planning process, there are also elements that are of concern to U.S. citizens, Jewish groups and American and Serbian organizations with regards to future restitution of nationalized property. Of their chief concerns is that restitution in kind is not protected and that the proposed restitution fund that the law would create would not be appropriately funded or managed. Post has reached out to members in the ruling coalition in both government and parliament to voice our concerns about the proposed legislation and to encourage a fair, transparent and coordinated approach to restitution issues. End Summary.

THE LAW AND PROPERTY OWNERSHIP

2. (SBU) On July 9, the government approved the draft Law on Planning and Construction and it was sent to Parliament on July 10. Branko Trajkovic from the Serbian League for Protection of Private Property and Human Rights told us on July 22 that debate on the draft and proposed amendments was planned for July 29, with possible voting on July 31.

3. (SBU) Prior to going to Parliament, Minister for Environment and Zoning, Oliver Dulic, (Democratic Party- DS) presented the draft of the law to the American Chamber of Commerce on June 24. The presented draft contained significant changes to drafts previously shared through USAID sponsored public forums that had invited and collected stakeholder opinions and comments on the draft law. Among those changes were provisions for private landownership which have significant bearing on restitution of nationalized property in Serbia. Specifically, the draft law now allows:

- Current usage right holders to convert usage right to full private ownership, free of charge, to provincial and local governments, previous owners of nationalized undeveloped land and their legal successors, and owners of buildings or part of buildings (e.g. apartments owners would now own the nationalized land beneath their apartments);
- For usage right acquired through privatization to be converted to land ownership by paying the difference between the market value of the construction land at the time of conversion and the costs of acquiring the land;
- Lease right to be converted into ownership upon payment of the whole lease amount plus 1%; and
- Proceeds from conversion of lease and usage rights into ownership to be shared between local government budgets and a national restitution fund.

CONCERNS FROM CLAIMANTS, MP'S AND BUSINESS

4. (SBU) A number of U.S. citizen restitution claimants, Jewish

groups, U.S. and Serbian organizations have expressed their concern to the Embassy and GOS that the draft law does not allow for restitution in kind and that the funds from property conversion money will go to the proposed national restitution fund with little details as to how that fund would be managed and disbursed. Even some members of parliament from the ruling coalition do not agree with the law. At a press conference criticizing the law on July 16 held by the Jewish Communities in Serbia (JCS) and the League for Protection of Private Property and Human Rights, Serbian Renewal Movement (SPO) MP Zika Gojkovic said the four SPO and three PUPS MPs would vote against the draft law, although he expected most other government coalition members to support the legislation. Dragana Milovanovic, President of the Serbian League, said that they had submitted an initiative to withdraw the law from the Parliament with the support of SPO. Aleksandar Necak, President of the JCS said that the law represented the "tycoonization of the nationalized property," suggesting that the Government was giving away property to tycoons instead of returning property to the original owners. Opposition to the law is also evident within parts of the business community, including Delta Real Estate who told us on July 22 that the law could possibly be unconstitutional and if so could leave a stigma on Serbia's investment climate.

DULIC: LAW NECESSARY FOR ECONOMIC GROWTH

¶5. (SBU) The proposed law was necessary for Serbia's economic reform effort and to attract new investment, Dulic told the Charge on July 20. Dulic said the draft Planning and Construction law focused on streamlining business processes and would only deal partly with

property issues, stressing that denationalization would be addressed in additional laws on public property and restitution which were the responsibility of the Finance Ministry. It did not make sense, Dulic said, to pass these laws as a package since doing so could further slow down the entire process, which had already taken too long. Dulic said Serbia needed to resolve the land ownership issue in the most fair and transparent manner but acknowledged that the government "could not make everybody happy." Dulic said he thought restitution in kind was unfeasible for the government and the only viable solution was through financial compensation. Dulic said that his own family had ownership claims that would be affected by the legislation. Dulic said he expected the legislation to be adopted by the end of July.

CVETKOVIC: SERBIA CAN'T AFFORD TO PAY

¶6. (SBU) During a July 22 conversation at an EU reception, Charge approached Prime Minister Mirko Cvetkovic for his views on the draft law. Israeli Charge Yair Frommer joined the conversation. After Charge stated her concerns vis--vis Serbia's ability to attract foreign investment if property claims were still in dispute, Cvetkovic stated that it was impossible for Serbia to pay the full amount of the claims already submitted. He also stated that Serbia should treat all claims equally and also seemed confident that the Government was on the right track with the proposed property law. Both Cvetkovic and National Bank Governor Jelasic, who joined the conversation, looked vague when Charge inquired about management of the restitution fund.

¶7. (SBU) Frommer called Charge on July 23 to convey his concern that the conversation with Cvetkovic demonstrated continued Serbian confusion on the entire restitution issue. Referring to Israel's extensive experience with restitution issue in Eastern Europe, Frommer said "they've got the sequencing wrong, you do restitution first and then a property law, not the other way around which pre-empts restitution claims." Frommer said he pursued Jelasic further on the 22nd regarding this issue and Jelasic offered to host a conference of experts in September to address the issue. Israel planned to send restitution experts from the World Jewish Restitution Conference and the American-Jewish Joint Distribution Committee. Frommer also said that based on his talks with Cvetkovic and Jelasic he was doubtful either of them understood either the status of a restitution fund or how to manage one.

¶8. (SBU) Finance Ministry State Secretary Slobodan Ilic told us on July 22 that there was close coordination between Finance and Dulic's Ministry and he expected there would be several amendments to the planning and construction legislation that would further restrict its impact on restitution. Ilic said the Finance Ministry expected to introduce parallel laws on restitution and public property to parliament by the end of the year. (Claims that we have heard from the Finance Ministry for the past several years.) Ilic said Serbia was working closely with the Council of Europe (CoE) in drafting a fair and viable restitution law, and that with CoE support Serbia would host a roundtable in mid September to further develop the legislation. Ilic said Serbia was intent on cooperating closely with the CoE to make certain that any restitution legislation would not violate basic human rights principles. "Serbia needed to keep good relations with the European Court of Human Rights," Ilic said.

AN EXCESSIVE COST

¶9. (SBU) Ilic estimated that enacting a full restitution law in Serbia could cost the government more than \$10 billion, a cost which would be impossible for Serbia to absorb. Ilic said any restitution would need to be a combination of in kind and financial mechanisms. He expected once a law is enacted it would still take at least two years to review claims. Despite the obvious burden to the state, Serbia needed to resolve this issue if it wanted to attract investment and become competitive, Ilic said.

COMMENT

¶10. (SBU) The proposed law on Planning and Construction will certainly impact restitution claims, if it goes forward ahead of a restitution law. While Dulic's desire to streamline business processes in order to attract investment is admirable in this increasingly lethargic government, he may be expanding his reach too far, into the domain of the slow to act Finance Ministry. We will continue to urge the government to enact in a timely manner a

coordinated, transparent and expeditious restitution process. Serbia's failure to do so, while cheaper in the short run, may cost Serbia more in its inability to attract investors and to compete with neighbors who have already closed the door on their restitution issues. End Comment.
BRUSH